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Attorneys for Defendants Stratasoft, Inc. and INX, Inc.

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA

SCHNEIDER RUCINSKI ENTERPRISES, a  
 California Women Owned Small (Sole  
 Proprietor) Business,

Plaintiff,

vs.

STRATASOFT, INC. a Texas Corporation;  
 INX/I-SECTOR, INC., a Texas Corporation; U.S.  
 COLO One Wilshire LLC, an LLC of Nevada;  
 TOUCH ASIA,

Defendants.

) Case No. 08 CV 0138 WQH POR

) Date: July 28, 2008

) Time: 11:00 a.m.

) Judge: Hon. William Q. Hayes

) **DEFENDANTS STRATASOFT, INC.'S AND**  
 ) **INX, INC.'S NOTICE OF MOTION AND**  
 ) **MOTION TO DISMISS FIRST AMENDED**  
 ) **COMPLAINT FOR LACK OF SUBJECT**  
 ) **MATTER JURISDICTION OR, IN THE**  
 ) **ALTERNATIVE, TO DISMISS FOR**  
 ) **FAILURE TO STATE A CLAIM OR, IN**  
 ) **THE ALTERNATIVE, FOR A MORE**  
 ) **DEFINITE STATEMENT**  
 ) **[FRCP 12(b)(1)]**  
 ) **[FRCP 12(b)(6)]**  
 ) **[FRCP 12(e)]**

) [NO ORAL ARGUMENT]

) Complaint Filed: January 23, 2008

**TO THE COURT, PLAINTIFF, AND ALL PARTIES AND THEIR RESPECTIVE  
 COUNSEL:**

**PLEASE TAKE NOTICE THAT:** On July 28, 2008, at 11:00 a.m., or as soon thereafter as  
 the Court can hear the matter, Defendants Stratasoft, Inc. ("Stratasoft") and INX, Inc. ("INX") will  
 move the Court for an order dismissing this action pursuant to Fed. R. Civ. P. 12(b)(1) on the ground  
 that the First Amended Complaint fails to establish the existence of subject matter jurisdiction in that

1 there is neither complete diversity of parties nor any federal question presented. Accordingly, the  
2 Court must dismiss the action on this ground alone. In the alternative, Defendants move to dismiss the  
3 action pursuant to Fed. R. Civ. P. 12(b)(6) on the ground that Plaintiff has failed to state a claim upon  
4 which relief can be granted against these Defendants because the First Amended Complaint fails to  
5 make sufficient factual allegations by which these Defendants may be held liable for the alleged  
6 claims.

7 In the alternative, if the Court does not grant the motions to dismiss pursuant to Rules 12(b)(1)  
8 or 12(b)(6), Defendants move for a more definite statement of pleading pursuant to Rule 12(e).

9 This motion is based upon this Notice of Motion, the accompanying Memorandum of Points &  
10 Authorities and attached declarations, the Court's file and records, and such other evidence and  
11 argument as the Court may permit at a hearing on this motion.

12  
13 Dated: June 19, 2008

Respectfully submitted,

14 WALLER LANSDEN DORTCH & DAVIS, LLP

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16 By: s/John E. McOske  
17 Attorneys for Defendants  
18 Stratasoft, Inc. and INX, Inc.  
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**PROOF OF SERVICE**

STATE OF CALIFORNIA )  
 ) ss.:  
 COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 333 S. Grand Avenue, Suite 1800, Los Angeles, California 90071.

On June 19, 2008, I served on the interested parties in said action the within:

**DEFENDANTS STRATASOFT, INC.'S AND INX, INC.'S NOTICE OF MOTION AND  
 MOTION TO DISMISS FIRST AMENDED COMPLAINT FOR LACK OF SUBJECT  
 MATTER JURISDICTION OR, IN THE ALTERNATIVE, TO DISMISS FOR FAILURE TO  
 STATE A CLAIM OR, IN THE ALTERNATIVE, FOR A MORE DEFINITE STATEMENT  
 [FRCP 12(b)(1)]  
 [FRCP 12(b)(6)]  
 [FRCP 12(e)]**

by placing a true copy thereof in a sealed envelope(s) addressed as stated below. and causing such envelope(s) to be deposited in the U.S. Mail at Los Angeles, California.

Noreen Rucinski  
 3344 N. Mt. View Drive  
 San Diego, CA 92116

In Pro Se Plaintiff

☒ (MAIL) I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

I declare under penalty of perjury that I am employed in the office of a member of the bar of this Court at whose direction the service was made and that the foregoing is true and correct.

Executed on June 19, 2008, at Los Angeles, California

Rosie A. Ortiz  
 (Type or print name)

(Signature)